

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION**

**CASE NO.:**

PIX INTERNATIONAL, LLC,

Plaintiff,

v.

METRO SPIRIT INC.,

Defendant.

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**COMPLAINT FOR COPYRIGHT INFRINGEMENT**  
(INJUNCTIVE RELIEF DEMANDED)

Plaintiff PIX INTERNATIONAL, LLC by and through its undersigned counsel, brings this Complaint against Defendant METRO SPIRIT INC. for damages and injunctive relief, and in support thereof states as follows:

**SUMMARY OF THE ACTION**

1. Plaintiff PIX INTERNATIONAL, LLC ("PIX INT'L"), brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Pix Int'l's original copyrighted works of authorship.
2. Pix Int'l is entertainment photography and content, limited edition publishing and fine art photography founded in 1980 by award-winning photographer Linda Matlow ("Matlow"). Matlow specializes in covering major

entertainment, news and events from her main base in Chicago, Illinois. She was also photo editor and/or Bureau chief and columnist for The Prairie Sun, Chicago Soundz Magazine, Chicago Nightlife Magazine, Midwest Beat and Chicago Beat. Matlow has over 700,000 photo images available for rights managed image licensing and her photos have been licensed and published in thousands of magazines, books, newspapers, CD covers and TV shows, as well as hundreds of books around the world.

3. Defendant METRO SPIRIT INC. ("Metro Spirit") is an independent news media outlet for the Augusta, Georgia area that at all times relevant herein owned and operated a website at the URL [www.metrospirit.com](http://www.metrospirit.com).

4. Pix Int'l alleges that Metro Spirit copied Pix Int'l's copyrighted Work from the internet in order to advertise, market and promote its business activities. Metro Spirit committed the violations alleged in connection with Metro Spirit's business for purposes of advertising and promoting sales to the public in the course and scope of Metro Spirit's business.

### **JURISDICTION AND VENUE**

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.
6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).
7. Defendant is subject to personal jurisdiction in Georgia.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Defendant resides in this district, and Defendant is subject to personal jurisdiction in this district.

### **DEFENDANT**

9. Metro Spirit Inc. is a Georgia corporation with its principal place of business at 3124 B Washington Road, Augusta, GA 30907, and can be served by serving its Registered Agent, Chandra Paul, Nath, 4289 North Shallowford Road, Apartment A, Chamblee, GA 30341.

### **THE COPYRIGHTED WORK AT ISSUE**

10. In or about 1981, Linda Matlow created a photograph entitled “brown\_85123,” which is shown below and referred to herein as the “Work”.



11. Pix Int'l registered the Work with the Register of Copyrights on October 30, 2013 and was assigned the registration number VA 1-889-188. The Certificate of Registration is attached hereto as Exhibit 1.

12. At all relevant times Pix Int'l was the owner of the copyrighted Work at issue in this case by assignment from Matlow.

### **INFRINGEMENT BY DEFENDANT**

13. Metro Spirit has never been licensed to use the Work at issue in this action for any purpose.

14. On a date after the Work at issue in this action was created, but prior to the filing of this action, Metro Spirit copied the Work.

15. Metro Spirit copied Pix Int'l's copyrighted Work without Pix Int'l's permission.

16. After Metro Spirit copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its Augusta, Georgia based news entertainment website.

17. Metro Spirit copied and distributed Pix Int'l's copyrighted Work in connection with Metro Spirit's business for purposes of advertising and promoting Metro Spirit's business, and in the course and scope of advertising and selling products and services.

18. Pix Int'l's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

19. Metro Spirit committed copyright infringement of the Work as evidenced by the documents attached hereto as Exhibit 2.

20. Pix Int'l never gave Metro Spirit permission or authority to copy, distribute or display the Work at issue in this case.

21. Pix Int'l notified Metro Spirit of the allegations set forth herein on January 17, 2019. To date, Metro Spirit has failed to respond to Plaintiff's Notice. A copy of the Notice to Metro Spirit is attached hereto as Exhibit 3.

**COUNT I**  
**COPYRIGHT INFRINGEMENT**

22. Plaintiff incorporates the allegations of paragraphs 1 through 21 of this Complaint as if fully set forth herein.

23. Pix Int'l owns a valid copyright in the Work at issue in this case.

24. Pix Int'l registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

25. Metro Spirit copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Pix Int'l's authorization in violation of 17 U.S.C. § 501.

26. Metro Spirit performed the acts alleged in the course and scope of its business activities.

27. Metro Spirit's acts were willful.
28. Pix Int'l has been damaged.
29. The harm caused to Pix Int'l has been irreparable.

WHEREFORE, the Plaintiff prays for judgment against the Defendant Metro Spirit Inc. that:

- a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;
- b. Defendant be required to pay Plaintiff its actual damages and Defendant's profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;
- c. Plaintiff be awarded its attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
- e. Plaintiff be awarded prejudgment interest; and
- f. Plaintiff be awarded such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: April 11, 2019

Respectfully submitted,

*/s/ Joel B. Rothman*  
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